is said to be the proximate cause of the loss. *Fire Ass'n. of Phila.* v. *Evansville Brewing Ass'n.* (Fla. 1917) 75 So. 196; *Wheeler* v. *Phenix Ins. Co.* (1911) 203 N. Y. 283, 96 N. E. 452. The courts refuse, however, to hold the insurer under the standard policy, if the hostile fire and the resulting explosion both occur upon neighboring premises, and the loss is caused entirely by concussion, on the ground that the fire is too remotely connected with the loss. *Hustace* v. *Phenix Ins. Co.* (1903) 175 N. Y. 292, 67 N. E. 592; *Hall & Hawkins* v. *National Fire Ins. Co.* (1906) 115 Tenn. 513, 92 S. W. 402; *Phœnix Ins. Co.* v. *Adams* (Ky. 1910) 127 S. W. 1008; but see *Heuer* v. *Northwestern Nat'l. Ins. Co.* (1893) 144 Ill. 393, 33 N. E. 411. These decisions are not controlling, however, where, as in the principal case, the policy does not contain any exception for loss by explosion, for in such a case the explosion itself is deemed to be insured against, and the company is therefore liable for the resulting loss. *German, etc., Ass'n.* v. *Conner, supra.* In general, the fact that the fire causing the loss occurred on neighboring premises does not bar recovery against the insurer, for damage upon the insured premises, resulting from the fire. *Russell* v. *German Fire Ins. Co.* (1907) 100 Minn. 528, 111 N. W. 400; May, Insurance, § 402 *n* (a). It is difficult to see why the courts should draw a distinction between loss due to an explosion, and loss due to other causes, following a fire on neighboring premises; and it would be more logical to hold the insurer liable in both cases. But *cf. Caballero* v. *Home Mutual Ins. Co.* (1860) 15 La. Ann. 217.

JURY—PERSONATION BY DISQUALIFIED PERSON—NEW TRIAL.—T was summoned for jury service, but did not attend, and C, a disqualified person not on the jury list, answered to T's name and sat in his place on the jury which convicted the defendant. The mistake was discovered after verdict. *Held,* that there had been a mistrial. *Rex* v. *Wakefield* (1918) 13 Crim. App. Cas. 56.

Statutory disqualification of a juror, first discovered after verdict, is not, *per se,* sufficient ground for a new trial. *State* v. *Jones* (1912) 90 S. C. 290, 73 S. E. 177; *Teel* v. *State* (Ark. 1917) 195 S. W. 32. Some courts will grant a new trial if the defendant could not have discovered the disqualification by proper inquiry before verdict, *Smith* v. *State* (1907) 2 Ga. App. 574, 59 S. E. 311, while others even then would deny a new trial, in their discretion, unless substantial prejudice to the defendant were proved. See *Commonwealth* v. *Wong Chung* (1904) 186 Mass. 231, 71 N. E. 292; *People* v. *Cosmo* (1912) 205 N. Y. 91, 98 N. E. 408. It would appear that by the juror's assumption of another's name, as in the principal case, the defendant is prevented from discovering his disqualification by due inquiry, and so, under the holding of *Smith* v. *State, supra,* should be granted a new trial. But even though the personating juror were qualified, it would seem that the decision in the principal case would be the same. Where there is misnomer of a qualified juror it is held that discovery of the fact after verdict will not cause the court to grant a new trial, *Commonwealth* v. *Potts* (1913) 241 Pa. 325, 88 Atl. 483; *Chadwick* v. *United States* (C. C. A. 1905) 141 Fed. 225, since the defendant is not prejudiced. *Louisville Ry.* v. *Smock* (1914) 157 Ky. 11, 162 S. W. 546. Courts have similarly refused a new trial where one juror personated another, *Case of a Juryman* (1783) 12 East 231, again asserting that the defendant was not prejudiced, *Commonwealth* v. *Parsons* (1885) 139 Mass. 381, 31 N. E. 767, and it has

even been held, in a case like the instant one, where the personating juror was neither summoned nor qualified, that it was too late to seek a new trial after verdict. *Tolbert* v. *State* (1893) 71 Miss. 179, 14 So. 462. These cases seem to lose sight of the fact that a juror, by assuming another's name, may escape personal investigation and thus cause the defendant to lose the vital right of peremptory challenge. See *Regina* v. *Mellor* (1858) 1 Dears. & B. 468. The court, for this reason, would seem to be right in granting a new trial in the principal case. *King* v. *Tremearne* (1826) 5 B. & C. 254; *Norman* v. *Beamont* (1744) Willis 484; *Regina* v. *Mellor, supra, contra, Tolbert* v. *State, supra.*

MUNICIPAL CORPORATIONS—IMPLIED POWERS OF MUNICIPALITY TO OWN PUBLIC UTILITIES—ICE AND COLD STORAGE PLANT.—A town charter gave power to issue bonds whenever the Board of Aldermen should "deem it proper and expedient so to do for the purpose of making any public improvement" (Ga. Laws 1905, p. 609, § 6). *Held,* the town may issue bonds for the erection of a municipal ice and cold storage plant for the benefit of its inhabitants. *Saunders* v. *Mayor, etc., of Town of Arlington* (Ga. 1918) 94 S. E. 1022.

However illogical its origin may be, the doctrine is well settled that taxes may be levied for public purposes only. McBain, Taxation for Private Purpose, 29 Pol. Sci. Quar. 185. But expenditures for even unusual public utilities, such as municipal fuel yards, have now come to be considered constitutional, *Laughlin* v. *City of Portland* (1914) 111 Me. 486, 90 Atl. 318; *cf. Stevenson* v. *Port of Portland* (1917) 82 Ore. 576, 162 Pac. 509; *Opinion of Justices* (1903) 182 Mass. 605, 66 N. E. 25, and the Georgia court, some time before the decision in the instant case, permitted the construction of a municipal ice plant. *Holton* v. *City of Camilla* (1910) 134 Ga. 560, 68 S. E. 472; *contra, Union Ice & Coal Co.* v. *Town of Ruston* (1914) 135 La. 898, 66 So. 262. Moreover, the Supreme Court will accept the state decision as to the public need and purpose, unless it is clearly unreasonable. *Jones* v. *City of Portland* (1917) 38 Sup. Ct. 112. However, in the above cases express statutory authority had been given the municipalities to enter these novel fields. In the absence of express charter provisions, general welfare clauses, *Intendant, etc., of Livingston* v. *Pippin* (1858) 31 Ala. 542; *contra, Town of Jacksonport* v. *Watson* (1878) 33 Ark. 704, or general taxing power clauses, *Mayor, etc., of Rome* v. *Cabot* (1859) 28 Ga. 50; *Fawcett* v. *Mt. Airy* (1903) 134 N. C. 125, 45 S. E. 1029, are construed to grant to the municipality the right to operate customary public utilities, such as lighting plants and water works. And in one instance the court reached this result without reference to any charter provision. *Ellinwood* v. *The City of Reedsburg* (1895) 91 Wis. 131, 64 N. W. 885. But such expense may not be incurred in the case of an unusual public utility, as an abattoir. *Huesing* v. *City of Rock Island* (1889) 128 Ill. 465, 21 N. E. 558. In extending the rule for construing general or implied powers so as to include the power to own and operate unusual public utilities, the instant case aids in whittling down the distinction between public and private business and in broadening the field of municipal ownership and control over living costs. See McBain, American City Progress and the Law, 44-48, 193-202; 52 American Law Rev. 215; *cf.* 15 Columbia Law Rev. 179, 181; Pond, Public Utilities, Chapters IV-V.